

ORIGINAL

#00557
Page 1 of 8
U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
AUG 17 2012
CLERK, U.S. DISTRICT COURT
By *ada*
Deputy

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS

CASE NO. **3:12CV2959**

BARBARA HILDENBRAND,
Plaintiff

v.

MEGAN J. FAHEY,
MATTIE PETERSON COMPTON,
DEPARTMENT OF JUSTICE,
Defendants

PLAINTIFF'S ORIGINAL COMPLAINT AND
PETITION FOR DECLARATORY JUDGMENT

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, BARBARA HILDENBRAND, hereinafter "Plaintiff" and files the following complaint, directed to MEGAN J. FAHEY, MATTIE PETERSON COMPTON,, AND the UNITED STATES DEPARTMENT OF JUSTICE, hereinafter "Defendants", and for cause of action, would show the Court as follows:

- 1) This is an action to have Assistant U.S. Attorneys Megan J. Fahey and Mattie Peterson Compton, Northern District of Texas, and the Department of Justice comply with their obligations under the Freedom of Information Act, to supply requested records and evidence that was requested by Plaintiff in a Freedom of Information act request filed September 19, 2011.
- 2) The Department of Justice has not supplied the requested records or evidence.

- 3) If the Department of Justice cannot supply the requested documents, Plaintiff requests a Declaratory Judgment that the records, evidence or other supporting documentation do not exist.
- 4) This is not a request for monetary damages, other than statutorily allowable fees.
- 5) If allowed by statute, Plaintiff requests a jury trial.

Parties

- 6) Plaintiff is a private citizen of the United States whose address is 4645 O'Connor Court, Irving, Texas 75062.
- 7) Defendants are Megan J. Fahey, Mattie Peterson Compton, and the Department of Justice.

Jurisdiction and Venue

- 8) This Court has jurisdiction over this action under 28 U.S.C. § 1331, because this action arises under 5 U.S.C. § 522(a)(4)(B), the Freedom of Information Act, 5 U.S.C. § 701-708, the Administrative Procedures Act, and 28 U.S.C. § 2201, the Federal Declaratory Judgment Act.
- 9) Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b) because Plaintiff is a resident of this district.

Facts

- 10) There is an actual controversy between Plaintiff and Defendants as to Defendants meeting their obligations under the Freedom of Information Act (FOIA).
- 11) On September 19, 2011, Plaintiff made a FOIA request, Number 11-3209, requesting records, documents, or other evidence supporting the statements made

by A.U.S.A.'s Fahey and Compton with regard to criminal case 04-CR-00318 in the Northern District of Texas. A copy of that request is enclosed.

12) On October 24, 2011, Plaintiff received an answer to the FOIA request stating that a search in the Northern District of Texas produced no records or evidence that would be responsive to the FOIA request.

13) On October 24, 2011, Plaintiff filed an appeal of the DOJ response. A copy of that appeal is enclosed.

14) On May 16, 2011, Plaintiff received an answer to its appeal stating that the DOJ, after a full review, upheld the findings in the initial response, stating that they have no evidence to support the statements made by Fahey and Compton. This answer constitutes a final agency decision, allowing for judicial review.

Claim for Relief

15) Plaintiff submits that the DOJ is withholding the following evidence that was requested in the initial FOIA:

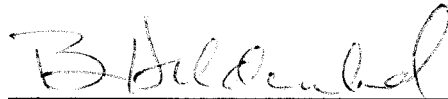
- a. Evidence that Plaintiff was the "alter ego" of Community Housing Fund under the laws of the State of Texas.
- b. Evidence that Plaintiff ever stole, or admitted stealing, \$672,221 from the Department of Housing and Urban Development (HUD).
- c. Evidence that there is a HUD program titled Single Family Affordable Housing Program.
- d. Evidence that there is a specific statutory scheme for the Single Family Affordable Housing Program.

e. Evidence that the Secretary of HUD complied with 42 U.S.C. § 3545 in publishing in the Federal Register notice of any funding assistance under the Single Family Affordable Housing Program.

16) If the Department of Justice cannot supply the items in Number 15, Plaintiff requests a Declaratory Judgment that such items do not exist.

17) If Defendants cannot supply proof that the items in Number 15 exist, Plaintiff requests all costs, fees, and expenses associated with this case as allowed by law.

Respectfully submitted this 16 day of August, 2012



Barbara Hildenbrand
4645 O'Connor Court
Irving, TX 75062
469-443-6344
Fax: 972-717-1899

Susan B. Gerson
Acting Assistant Director
United States Department of Justice
Freedom of Information Act
600 E. Street, Suite ~~7300~~
Washington, DC 20530-0001

September 19, 2011

I made a request under the Freedom of Information Act on August 10, 2011. (copy enclosed) I received a letter from you dated August August 30, 2011 that stated that Request Number 2011-2859 was being closed as there was no DOJ-361 enclosed, nor did the request state where the specific US Attorney's were located that are the subject of this request. I believe that a review of my initial request shows that your concerns were met in the first FOIA request. However, in the interest of moving forward, I am submitting a new request, along with a DOJ-361 and a copy of my driver's license.

I believe that the location of the records, evidence, and documentation that I am requesting are located in the Northern District of Texas. Both AUSA's that are the subject of this request are located at Burnett Plaza, Suite 1700, 801 Cherry Street, Ft. Worth, Texas, 76102.

In criminal case 04-CR-00318 in the Northern District of Texas, in filing #154 on September 14, 2007, AUSA Mattie Peterson Compton stated that I was the alter ego of Community Housing Fund. She also stated that I admittedly used Community Housing Fund to defraud the Department of Housing and Urban Development of \$672,221.00.

I am requesting the records, evidence, and documentation that Ms. Compton used to make those determinations. I am also specifically requesting how the government determined that I was the alter ego of Community Housing Fund as determined by the State of Texas alter ego laws.

In criminal case 04-CR-00318 in the Northern District of Texas, in filing #244, AUSA Megan J. Fahey stated that "CHF is the alter ego of Hildenbrand....." I am requesting the records, evidence, and documentation that Ms. Fahey used to make that determination.

Also in criminal case 04-CR-00318 in the Northern District of Texas, in filing #244, Ms. Fahey states that "CHF was selected to participate in HUD's Single Family Affordable Housing Program (SFAHP).....I am requesting the records, evidence, and documentation that Ms. Fahey used in determining that there is a HUD program titled Single Family Affordable Housing Program (SFAHP), where the required 'specific statutory scheme' for that program can be found, and where the Secretary of HUD complied with 42 USC 3545 regarding this purported program.

I am faxing this request on Monday, September 19, 2011 to 202-252-6047 and sending it by Certified Mail with the US Post Office on the same date.

I am requesting that this information be made available to me within the statutory time limit as required by law.



Barbara Hildenbrand
4645 O'Connor Ct.
Irving, Texas 75062

telephone: 469-443-6344
fax: 972-171-1899

I agree to pay up to \$50⁰⁰ for any charges. BHA

FOIA APPEAL

Office of Information Policy
 United States Department of Justice
 1425 New York Ave.
 Washington, DC 20530-0001

October 25, 2011

On October 24, 2011, I received a response to a FOIA request sent to you dated September 19, 2011. This was your request number 11-3209. The response stated that a search for records located in the US Attorney's office in the Northern District of Texas produced no responsive records. I am appealing that decision as I feel it is non responsive to my initial request.

I had requested the records, documents, and evidence used by two AUSA's in making representations to the United States District Court in the Northern District of Texas in Docket Numbers #154 and #244 in case number 04-CR-00318. I am appealing the fact that these two AUSA's can make representations to the Court and then claim they have no records, documentation, or evidence. There must be records that have not been produced or the two AUSA's presented documents to the Court that had no basis in fact.

I have faxed this appeal to the United States Department of Justice at 202-252-6047. I have also sent it by US mail with electronic return receipt requested on October 25, 2011.

I am asking that this appeal be answered with



Barbara Hildenbrand
 4645 O'Connor Ct.
 Irving, Texas 75062

U.S. Postal Service™ CERTIFIED MAIL™ RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)			
For delivery information visit our website at www.usps.com			
OFFICIAL USE			
Postage	\$	\$0.44	0015 25 Postmark Here 10/25/2011
Certified Fee	\$	\$2.85	
Return Receipt Fee (Endorsement Required)	\$	\$1.15	
Restricted Delivery Fee (Endorsement Required)	\$	\$0.00	
Total Postage & Fees	\$	\$4.44	
Sent To <u>DOJ appeal - BH</u>			
Street, Apt. No., or PO Box No.			

CIVIL COVER SHEET

ORIGINAL

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Barbara Hildenbrand

(b) County of Residence of First Listed Plaintiff Dallas County, TX
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

4645 O'Connor Ct., Irving, TX 75062
469-443-6344

DEFENDANTS

Megan Fahey, Mattie Compton Peterson, Department of Justice

County of Residence of First Listed Defendant Tarrant County, TX
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

RECEIVED

AUG 17 2012

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (For Diversity Cases Only)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
5 USC 522

Brief description of cause:
non compliance with statutory requirement

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

8-16-2012

B. Hildenbrand

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____